**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION NO. 20740 OF 1999**

**DATED: 13-06-2007**

Between :

Authorized Officer,
Divisional Forest Officer,
Nellore.

… Petitioner

And

D.Narasimha Rao

... Respondents

**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION NO.20740 OF 1999**

**ORDER :**

This writ petition is filed by the Forest Department questioning the order passed by the learned District Judge, Nellore in C.M.A.No.41 of 1994 dated 18-01-1999 wherein the order of confiscation made by the Divisional forest Officer dated 11-05-1994 was set aside.

The facts, in brief, are as under:

On 23-02-1994, the Assistant Surveyor of Forest along with his staff had intercepted the lorry bearing No.A.P.26-T 2486 at cross roads of Mopuru to Teerthampadu, Venkatagiri, which was loaded with 100 red sandal logs, alleging that forest produce was being illegally transported. After conducting due enquiry, the Divisional Forest Officer, Nellore, passed an order dated

11-05-1994 confiscating the vehicle along with the seized red sandal logs to the State. Aggrieved by the same, an appeal was preferred by the respondent herein, the owner of the lorry. The learned District Judge on re-appreciation of the evidence on record found that the owner of the lorry had no knowledge about the alleged incident. It was also held that the confiscation order, which was passed without examining any of the independent witnesses to substantiate the alleged connivance of the owner of the vehicle, was untenable and not in accordance with Section 44 (2) (C) of the A.P. Forest Act, 1967 (for short 'the Act'). Accordingly, the order of confiscation was set aside

and the appeal was allowed. The said order is under challenge in this writ petition.

Having heard the learned counsel for both the parties, I do not find any justifiable reason to interfere with the finding recorded by the appellate authority that the owner of the vehicle had no knowledge of the offence. The said finding which is based upon proper appreciation of the material on record cannot be held to be erroneous on any ground what so ever.

It is a well settled principle that unless the knowledge of the owner as to the forest offence is established, there cannot be any confiscation as contemplated under Section 44(2) (C) of the Act. A Full Bench of this Court in ***Sub Divisional Forest Officer, Chennur v. Vijay B.Gulati and others***[1] has categorically held that the vehicle involved in the alleged offence cannot be confiscated in the absence of cogent material to show the connivance of the owner of the vehicle.

In the light of the ratio laid down by the Full bench of this Court, the learned District Judge was justified in setting aside the order of confiscation.

Accordingly, the writ petition is dismissed. No costs.

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G. ROHINI, J.

Date 13-06-2007
KLP

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[1] 1997(6) A.L.T. 238